

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**NOTICE OF CORRESPONDENCE REGARDING THE
THREE HUNDRED THIRTY-SEVENTH OMNIBUS OBJECTION (NON-
SUBSTANTIVE) OF THE EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF THE COMMONWEALTH OF PUERTO RICO TO PENSION-
RELATED CLAIMS ASSERTED AGAINST THE INCORRECT DEBTOR**

To the Honorable United States District Court Judge Laura Taylor Swain:

1. On June 18, 2021, the Employees Retirement System of the Commonwealth of Puerto Rico (“ERS” or the “Debtor”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the sole Title III representative of ERS pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act*

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”, and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the “Debtors”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

(“PROMESA”),² filed the *Three Hundred Thirty-Seventh Omnibus Objection (Non-Substantive) of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico to Pension-Related Claims Asserted Against the Incorrect Debtor* [ECF No. 17081] (the “Three Hundred Thirty-Seventh Omnibus Objection”) to various proofs of claim.

2. The Three Hundred Thirty-Seventh Omnibus Objection seeks to reclassify the pension-related proofs of claim listed on Exhibit A thereto (collectively, the “Claims to Be Reclassified”), which identify ERS as the obligor when they are properly asserted, if at all, against the Commonwealth of Puerto Rico (the “Commonwealth”). As explained in the Three Hundred Thirty-Seventh Omnibus Objection, pursuant to Joint Resolution 188³ and Act 106 (collectively, the “Legislation”), the Commonwealth assumed any obligation to make payments to pensioners or other beneficiaries of ERS. Accordingly, any claims asserting an entitlement to pension or other benefits by individuals previously participating in ERS properly lie against the Commonwealth.

3. ERS has received the attached correspondence from:

- Alba Acevedo Vázquez (“Acevedo Vázquez”), a copy of which is attached hereto as Exhibit “A” (the “Acevedo Vázquez Response”), regarding Proof of Claim No. 1592 (the “Acevedo Vázquez Claim”); and
- Sonia M. Valencia Toledo (“Valencia Toledo,” and together with Acevedo Vázquez, the “Claimants”), a copy of which is attached hereto as Exhibit “B” (the “Valencia Toledo Response,” and together with the Acevedo Vázquez Response, the “Responses”), regarding Proof of Claim No. 49490 (the “Valencia Toledo Claim,” and together with the Acevedo Vázquez Claim, the “Claims”).

Certified translations of the Acevedo Vázquez Response and the Valencia Toledo Response are attached hereto as Exhibits “A-1” and “B-1,” respectively.

² PROMESA is codified at 48 U.S.C. §§ 2101–2241.

³ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Three Hundred Thirty-Seventh Omnibus Objection.

I. The Acevedo Vázquez Response

4. The Acevedo Vázquez Response consists of a notice accompanying the Three Hundred Thirty-Seventh Omnibus Objection, together with a handwritten, Spanish-language letter. The Acevedo Vázquez Response states that Acevedo Vázquez had tried unsuccessfully to contact Prime Clerk, and that “[t]he amount of the claim is approximate, it’s not a matter of the amount, as that is something you decide.” Acevedo Vázquez Response at 1.

5. The Acevedo Vázquez Claim asserts liabilities associated with allegedly accrued, but unpaid, wages arising from Acevedo Vázquez’s employment with the Vocational Rehabilitation Administration, as well as related pension adjustments. Liabilities associated with unpaid wages purportedly owed by the Vocational Rehabilitation Administration would properly lie, if at all, with the Commonwealth, not ERS, because the Vocational Rehabilitation Administration is not a part of ERS. Furthermore, as explained in the Three Hundred Thirty-Seventh Omnibus Objection, pursuant to the Legislation, pension-related claims are properly asserted, if at all, against the Commonwealth, not ERS, because the Commonwealth has assumed ERS’s obligation to make pension-related payments. The Acevedo Vázquez Response does not dispute that the liabilities asserted in the Acevedo Vázquez Claim are properly asserted, if at all, against the Commonwealth. Accordingly, the Court should reclassify the Acevedo Vázquez Claim to be asserted against the Commonwealth, not ERS.

II. The Valencia Toledo Response

6. The Valencia Toledo Response consists of a copy of a completed form filled in in handwritten Spanish, received by Prime Clerk on September 24, 2021. The Valencia Toledo Response asserts liabilities associated with allegedly accrued but unpaid wages arising from Valencia Toledo’s employment with the Department of Education in the amount of \$68,400, “not

including the experience-based raise pending adjudication,” as well as related pension adjustments. Valencia Toledo Response at 3-4.

7. Liabilities associated with unpaid wages purportedly owed by the Department of Education would properly lie, if at all, with the Commonwealth, not ERS, because the Department of Education is not a part of ERS. Furthermore, as explained in the Three Hundred Thirty-Seventh Omnibus Objection, pursuant to the Legislation, pension-related claims are properly asserted, if at all, against the Commonwealth, not ERS, because the Commonwealth has assumed ERS’s obligation to make pension-related payments. The Valencia Toledo Response does not dispute that the liabilities asserted in the Valencia Toledo Claim are properly asserted, if at all, against the Commonwealth. Accordingly, the Court should reclassify the Valencia Toledo Claim to be asserted against the Commonwealth, not ERS.

8. For the foregoing reasons, ERS respectfully requests the Court grant the Three Hundred Thirty-Seventh Omnibus Objection and reclassify the Claims, notwithstanding the Responses.

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Dated: January 5, 2022
San Juan, Puerto Rico

Respectfully submitted,

/s/ Hermann D. Bauer

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